

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOE DASILVA, JR.,)	Civil No. 20-11358
)	Hon. Mark A. Goldsmith
Plaintiff,)	
v.)	
)	
CHRISTINE WORMUTH,)	
Secretary of the Army, and)	
MARTIN POTTER, in his)	
individual capacity)	
)	
Defendant.)	
_____)	

DEPOSITION OF JOE DASILVA, JR.

DATE: Wednesday, September 7, 2022

TIME: 10:00 a.m. to 4:27 p.m.

FACILITATED BY: Free State Court Reporting

PURSUANT TO: Notice by counsel for the Defendant for
purposes of discovery, use at trial, or
such other purposes as permitted under
the Federal Rules of Civil Procedure
and Federal Rules of Evidence

REPORTED BY: JEREMY TIEKING

1 MR. ANCHILL: Why don't -- why don't you just
2 give the street name and city, and --

3 MR. ALTMAN: Okay.

4 MR. ANCHILL: And leave out the house number.

5 THE WITNESS: Dexter-Ann Arbor Road, Ann Arbor
6 Michigan, 48103.

7 BY MR. ANCHILL:

8 Q. Okay. How long have you lived at that address?

9 A. I think it's 2007. I think, yeah. Yes, 2007.

10 Q. Are you planning on moving anytime soon?

11 A. Nope.

12 Q. What was your address before that?

13 A. Dearborn Heights, on Hopkins Street.

14 Q. How long did you live at that address?

15 A. I think it was six years, five years, I don't
16 remember exactly.

17 Q. Who lived with you at that address?

18 A. Me, and my wife, and my son.

19 Q. Who lives with you currently?

20 A. Me, and my wife, and my son.

21 Q. What is your wife's name?

22 A. My wife's name? Marissa H. DaSilva.

23 Q. Is she employed?

24 A. Yes.

25 Q. Where does she work?

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1 MR. ALTMAN: Hold on. I'm going to object to the
2 relevance. What does his wife's employment have anything to
3 do with this lawsuit?

4 MR. ANCHILL: There's no relevancy objection so
5 that--

6 MR. ALTMAN: I'm going to instruct him not to
7 answer. We'll move for a protective order if you want.
8 You're not going to get into on a public record his wife's
9 employment. She's not a party to this suit.

10 MR. ANCHILL: What's your basis for instructing him
11 not to answer?

12 MR. ALTMAN: Because it's his wife's private
13 information. She's not a party to this suit. We'll call the
14 judge. I'm fine with that. What's your need to know his
15 wife's employment? So no, I'm going to instruct him not to
16 answer. The rules say I have to move for a protective order.
17 I'll do that. Do you want to wait and we can save these
18 things up and call the judge all at once or do you want to
19 call the judge now?

20 MR. ANCHILL: We can move on for right now.

21 MR. ALTMAN: Okay.

22 BY MR. ANCHILL:

23 Q. What is your educational background?

24 A. Can you be more specific?

25 Q. Did you graduate from high school?

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1 if you don't come in with it when you get hired, you got
2 to take all these classes and get certified in it. So,
3 those are what I have.

4 Q. Have you received any kind of legal training
5 ever?

6 A. Legal training?

7 Q. Uh-huh.

8 A. Be more specific, like what do you mean by legal
9 training?

10 Q. Training in the law?

11 A. Oh, the law, now, or are you talking in the past?

12 Q. Ever.

13 A. When I was -- yeah, I had to go through the
14 Reserve Academy, I received some legal training in the
15 Reserve Police Academy, yes. So, I think that was a long
16 time ago, so.

17 Q. You mentioned that you have a child?

18 A. Yes.

19 Q. How many children do you have?

20 THE WITNESS: Do I have to answer that? I mean
21 that's my family. I'm trying to keep --

22 MR. ALTMAN: You can tell him how many children.

23 THE WITNESS: I have one son.

24 BY MR. ANCHILL:

25 Q. All right. And how old is your son?

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1 MR. ALTMAN: I'm going to instruct you not to answer
2 that question.

3 Ask it differently, come on. You don't need to know
4 about his family. If you want to ask him is he still in the
5 house, has he graduated, okay. But his age and stuff like
6 that is just --

7 MR. ANCHILL: I'm entitled -- I'm not asking his
8 birthday. I mean, I just want to know how old he is.

9 MR. ALTMAN: Tell him how old he is.

10 THE WITNESS: My son's 19 years old.

11 BY MR. ANCHILL:

12 Q. Is your son aware that you brought a lawsuit
13 against the Army?

14 A. Yes, he is, 100 percent.

15 Q. Did you tell him that?

16 A. No, he noticed it when I came home from work, why
17 I was so bothered, what's happened in my whole career
18 there. My wife knows it, and my son knows it. "Dad,
19 you're not the same, what happened at work?" As soon as
20 I walk in the house, they knew something happened, they
21 knew I was not the same person. So, yeah, my son does
22 know.

23 Q. Okay, but when you say as soon as you walked in
24 the house, when was that?

25 A. Since it started in 2008. This has started since
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1 'cause the opp -- the other 12 are off or whatever.

2 Q. Do firefighters cook meals in the kitchen --

3 A. Yeah.

4 Q. -- together?

5 A. Well, not all of us are good cooks. We have a
6 couple good guys that are cooks, so, we'll just you know,
7 figure out hey, we all want to eat together, we're like
8 yeah, we'll have spaghetti, okay, so, I usually go the
9 store, pick up everything they need, and everybody just
10 pays you how much it was, and they cook, and we all eat.

11 Q. And you mentioned the bunk rooms too that you --
12 that the firefighters sleep in.

13 A. Yep.

14 Q. Okay. Where -- can you describe the bunk rooms?

15 A. They're just cubicles with a curtain, so, you
16 really have no privacy.

17 Q. Is there a bed?

18 A. There's a bed, they're murphy beds. There's two
19 firefighters in one bunk. So, when the opposite guy is
20 gone, his bunk comes up, and yours comes down, so.

21 Q. And you mentioned there was curtains?

22 A. Yeah.

23 Q. To separate them?

24 A. Well, no, walls separate them like a cubical
25 wall, but your door into your bunk is like a little

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1 Q. Okay. Did you receive anyone's permission to record
2 the conversation?

3 A. Nope.

4 Q. At the time that you recorded the conversation, was
5 Mr. Young your mentor?

6 A. No.

7 Q. Okay. Why did you record that conversation?

8 A. I don't know. It was just -- I was called in there
9 for this final report knowing that everything was wrong about
10 it. I just did it. It was not a -- it was just one of those
11 feelings where I -- just do it because it's a gut feeling.

12 Q. So you think that was the right thing to do?
13 Secretly recording a captain --

14 MR. ALTMAN: Objection, argumentative. Don't answer
15 that.

16 MR. ANCHILL: No, he has to answer.

17 MR. ALTMAN: No, he doesn't have to answer.

18 MR. ANCHILL: Yes, he does.

19 MR. ALTMAN: Okay, that's harassing. I'll move for
20 a protective order.

21 MR. ANCHILL: Okay.

22 MR. ALTMAN: That's cool. Let's call the judge.
23 You want to stop? Terminating the depo is suspended. I'll
24 file the motion. That's fine. Is that what you want to do?

25 MR. ANCHILL: Well, we'll hold open the deposition
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1 pending an answer to that question.

2 MR. ALTMAN: No, you won't --

3 MR. ANCHILL: It's a perfectly appropriate question.

4 MR. ALTMAN: It is not a perfectly appropriate
5 question. So, no, if you want to pursue that we're going to
6 call the judge and I will move for a protective order.

7 MR. ANCHILL: We're not going to do that now. We're
8 going to move on. And we'll deal with it later.

9 MR. ALTMAN: That's fine.

10 BY MR. ANCHILL:

11 Q. In that conversation, you were very intent on
12 finding out what discipline was taken against Potter, weren't
13 you?

14 A. What do you mean by intense? Did I want to know?
15 Of course I wanted to know.

16 Q. You asked Young many times about --

17 A. Yeah, I asked why --

18 Q. -- the results of --

19 A. Yes, of course.

20 Q. -- about --

21 A. No, I didn't ask about the results.

22 Q. No, you asked him the discipline that Potter
23 received.

24 A. Yes, I did.

25 Q. You wanted to know that.

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1 American or anyone by the 'N' word?

2 A. Say that again.

3 Q. Do you think it's acceptable to refer to an African
4 American or anyone by the 'N' word?

5 A. I don't know. I don't make that decision I mean.

6 Q. Have you ever watched pornography at work?

7 A. Yes.

8 Q. Did you view pornographic pictures, pornographic
9 videos, or both?

10 A. In my personal bunk room, yes.

11 Q. What do you mean your personal bunk room?

12 A. My private bunk room that I have -- it's my room. I
13 sleep there 24 hours. It's my -- I'm the only one sleeping
14 there. Yes, it's my bunk. It was my downtime, my do -- my
15 downtime. It's my private, it's like my bedroom. It's my
16 bedroom, basically.

17 Q. Your bunk in the Detroit Arsenal?

18 A. Yeah, it's my personal bedroom.

19 Q. That's where you viewed the porn?

20 A. I didn't -- I've seen it, yes. I've used it. It
21 wasn't on the government internet. It was internet that we
22 pay for, so.

23 Q. To your knowledge, has anyone observed you viewing
24 pornography?

25 A. Not to my knowledge.

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1 Q. Okay. Does watching pornography at work violate any
2 work -- or workplace rules?

3 A. I think if you're on a government computer, yes.

4 Q. Okay. What about on a personal computer the way
5 that you were viewing it in your bunk room at the Detroit
6 Arsenal?

7 A. I don't -- I don't think it violates anything that
8 I'm aware of.

9 Q. Okay. I'm showing you what we'll mark as exhibit
10 eight. This is Bates labelled DEF 881.

11 (At 4:19 p.m., deposition exhibit 8 marked.)

12 BY MR. ANCHILL:

13 Q. Can you tell us what this document is?

14 A. Yep, see it.

15 Q. What is that?

16 A. Basically what it says.

17 Q. What is the document?

18 A. What do you mean what is the document?

19 Q. What is it?

20 A. Memorandum for records it says.

21 Q. Okay. Is there anything in that memo that's
22 inaccurate?

23 A. Nope.

24 Q. Okay. Did you leave a pornographic website up on
25 your computer screen in your bunkroom and then leave the

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1 bunkroom?

2 A. Yeah, because we responded to a call, yep.

3 Q. Okay. Why'd you do that?

4 A. Didn't do it on purpose.

5 Q. Okay.

6 A. I had to respond to a call.

7 Q. And to your knowledge, Potter saw it?

8 A. Yep, obviously, yep.

9 Q. This occurred in September 2017?

10 A. I don't know if that -- where does it say that? I
11 don't remember the date. Yeah, that's what it says, yep.

12 Q. Do you believe it's a serious matter to have
13 pornographic material on your computer screen at work?

14 A. Do I believe it's -- if I was on a government
15 computer, I'd say yes.

16 Q. Okay. What about the way you were viewing it?

17 A. It was my bedroom, my bunk --

18 Q. So, not --

19 A. -- my privacy, my bedroom, my -- you know. So, it
20 was my privacy. It was my bedroom.

21 Q. So, not serious?

22 A. It was my privacy in my bedroom, nobody has the
23 right to go in there. Nobody has the right to do anything,
24 so.

25 Q. So, not a serious matter, correct?

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1 MR. ALTMAN: Objection, argumentative.

2 THE WITNESS: I can't answer that. I don't know,
3 sir.

4 BY MR. ANCHILL:

5 Q. Okay. Do you follow websites featuring Brazilian
6 women?

7 A. I don't remember. I don't think so, no. I don't
8 know. I don't remember.

9 Q. You don't know whether you follow websites featuring
10 --

11 MR. ALTMAN: I'm going to object.

12 MR. ANCHILL: -- Brazilian women?

13 MR. ALTMAN: I'm going to object. This is
14 absolutely harassing. It has nothing -- this is harassment.
15 If you want to persist in this, we'll call the judge.

16 MR. ANCHILL: You can answer.

17 MR. ALTMAN: I'm instruct -- I'm instructing him not
18 to answer.

19 MR. ANCHILL: He's bring --

20 MR. ALTMAN: I will move for a protective order. Do
21 you want us to terminate? Listen, he's not going to answer
22 that question. I will move for a protective order, or you
23 can move on.

24 MR. ANCHILL: I don't -- first of all, I don't
25 appreciate you interrupting. Keith, don't interrupt me,

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1 okay?

2 MR. ALTMAN: No. I can absolutely move for a
3 protective order.

4 MR. ANCHILL: You can, but please don't interrupt me
5 every time I speak.

6 MR. ALTMAN: That's fine. Deposition's over. We're
7 done. Deposition's over. I'll file the motion.

8 MR. ANCHILL: Okay.

9 MR. ALTMAN: Or you can just move on, your choice.

10 MR. ANCHILL: He has brought a sex discrimination
11 claim --

12 MR. ALTMAN: It doesn't matter.

13 MR. ANCHILL: Mr. Altman, he's -- he's --

14 MR. ALTMAN: What is it, listen --

15 MR. ANCHILL: Let me -- let me finish talking.

16 MR. ALTMAN: Okay, that's fine.

17 MR. ANCHILL: Just let me finish.

18 MR. ALTMAN: You're not going to convince me that
19 he's going to answer this question, so --

20 MR. ANCHILL: But I want to place this on the
21 record.

22 MR. ALTMAN: You can put it on the record all you
23 want. I'm --

24 MR. ANCHILL: I can't because you keep interrupting
25 me.

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1 MR. ALTMAN: I'm filing a motion to move for a
2 protective order, so.

3 MR. ANCHILL: Okay, that's fine.

4 MR. ALTMAN: Okay, let's go.

5 MR. ANCHILL: Let me just place my statement on the
6 record.

7 MR. ALTMAN: What -- there's no statement to put.
8 Let's go.

9 MR. ANCHILL: Your client has brought a sex
10 discrimination claim.

11 MR. ALTMAN: Okay. That has nothing to do with
12 whether he goes on Brazilian websites.

13 MR. ANCHILL: Yes, it does because --

14 MR. ALTMAN: It doesn't. We're done. Are you going
15 -- this is your choice. You can either move on, or I will
16 move file -- we'll terminate, and we'll file for protective
17 order. Make the call.

18 MR. ANCHILL: I mean --

19 MR. ALTMAN: Make the call. I'm not -- when he's
20 not going to discuss it. It's your call.

21 MR. ANCHILL: Okay, go ahead and move for a
22 protective order.

23 MR. ALTMAN: That's fine, no problem.

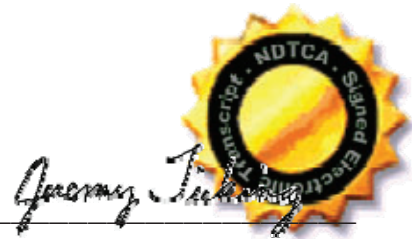
24 (At 4:27 p.m., deposition terminated.)
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C E R T I F I C A T E

I, Jeremy Tieking, an Electronic Reporter and a Notary Public, do hereby certify that the foregoing witness, Joe DaSilva, was duly sworn on the date indicated, and that the foregoing is a true and accurate transcription of my recordings and notes and is a true record of the testimony given by the foregoing witness.

I further certify that I am not employed by or related to any party to this action by blood or marriage and that I am in no way interested in the outcome of this matter.

In witness whereof, I have hereunto set my hand this 22nd day of September 2022.



Jeremy Tieking
Notary Public for the
State of Michigan

My commission expires: August 29, 2023

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